

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

STEPHANIE KELLY,)	
)	
Plaintiff)	
v.)	Civil No. 1:23-cv-527-LM-TSM
)	
NH Attorney General, et al.)	
)	
Defendants.)	

MOTION FOR CLARIFICATION OF MAGISTRATE’S REPORT

NOW COMES Stephanie Kelly, *pro se*, and respectfully requests for the Magistrate Judge to clarify the findings in her *Report and Recommendation* ([Doc 11](#)) filed September, 18, 2024. In further support thereof it is stated:

1. Plaintiff appears *pro se* and this pleading was drafted without the assistance of any professional counsel. Consequently, it should “be so construed as to do substantial justice.” [Erickson v. Pardus, 551 U.S. 89, 94 \(2007\)](#).
2. The doctrine of “issue preclusion” or *collateral estoppel* bars *only* the re-litigation of specific issues that were *actually decided* in a previous case. [Dennis v. RI Hosp. Trust Nat. Bank, 744 F. 2d 893, 899 \(1st Cir. 1984\)](#).
3. “For claim preclusion to apply the two actions must share four identities: ‘(1) identity of the thing sued for; (2) identity of the cause of action; (3) identity of persons and parties; and (4) identity of the quality [or capacity] of the persons for or against whom the claim is made.’” [Crowley Maritime Corporation v. National Union Fire Insurance Company of Pittsburg, PA., 3:16-cv-01011, \(M.D. Fla. Feb. 8, 2018\)](#). Further, “The party [emphasis added] asserting claim preclusion has the burden of proving [emphasis added] that the four identities exist and that the matter was formally adjudicated on the merits.” [Id.](#)

4. The Florida District Court's Order in Crowley was subsequently affirmed by the 11th Circuit in Crowley Mar. Corp. v. Nat'l Union Fire Ins. Co. of Pittsburgh, PA, 931 F.3d 1112 (11th Cir. 2019).
5. Plaintiff respectfully requests that the Magistrate clarify *who* is the party claiming issue preclusion.
6. In the alternative, Plaintiff respectfully requests that the Magistrate identify *who* are the parties in this action for whom the doctrine of collateral estoppel allegedly applies, and any and all reason(s) why Plaintiff must bear the burden of proof to show that it does not.
7. Further, "Collateral estoppel, or issue preclusion, applies when: '(1) the issue sought to be precluded in the later action is the same as that involved in the earlier action; (2) the issue was actually litigated; (3) the issue was determined by a valid and binding final judgment; and (4) the determination of the issue was essential to the judgment.'" Latin Am. Music Co. v. Media Power Grp., Inc., 705 F.3d 34, 42 (1st Cir. 2013).
8. Plaintiff respectfully requests for the Magistrate also to clarify *with specificity where* in the state court record that is properly before this Court that the relevant issues before this Court were *previously actually litigated and determined by a valid and binding final judgment*. More specifically, the issues of (I) "whether NH RSA 633:3-a is unconstitutionally vague, both facially and as-applied, under the Fourteenth Amendment;" (II) "whether NH RSA 633:3-a is unconstitutionally over-broad, both facially and as-applied, under the Fourteenth Amendment;" (III) "whether NH RSA 173-B is unconstitutionally vague, both facially and as-applied, under the Fourteenth Amendment;" (IV) "whether NH RSA 173-B is unconstitutionally over-broad, both facially and as-applied, under the Fourteenth Amendment;" and (V) whether Judge Chabot acted in the complete absence of all subject matter jurisdiction.
9. For the foregoing reasons, Plaintiff respectfully requests that the Magistrate offer clarification on her *Report and Recommendations* (Doc 11).

WHEREFORE, Plaintiff respectfully requests for this Court to:

- A) Offer clarification on the Magistrate's *Report and Recommendations* consistent with ¶¶1-9 as previously set forth.
- B) For other such relief as is just and equitable.

Respectfully submitted,

/s/ *Stephanie Kelly*

STEPHANIE KELLY

Pro Se

2 Pheasant Lane

Manchester, NH 03109

(603) 490-3785

c11h15no2darling@gmail.com

November 1, 2024.